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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 676/2006

CORAM: Hon'ble Shri **S.R.Nayak**, Chief Justice &
Hon'ble Shri **D.R.Deshmukh**, J.

PETITIONERS : 1. Adivasi Adhikar Samiti, Through its President, Mankuwar Bai, W/o Gendlal, Aged about 37 years, R/o Para BilaiBandh, Village Vishrampur, Panchayat Tara Behara, Post Kachod, Block Manendragarh, District Koriya (C.G.)

: 2. Sulakshana Nandi W/o Samir Garg, Aged about 31 years, C/o Sangam X-ray, C.H.M. Road, Manendragarh, District Koriya (C.G.)

Versus

RESPONDENTS : 1. State of Chhattisgarh, Through Principal Secretary (Forests), Mantralay, Raipur (Chhattisgarh)
: 2. Union of India, through Ministry of Environment and Forest, Paryavaran Bhawan, CGO Complex, Lodhi Road, Delhi.
: 3. Chhattisgarh Rajya Van Vikas Nigam Limited through its Managing Director, 252/253, Sector-V, Devendra Nagar, Raipur (C.G.)
: 4. Principal Chief Conservator of Forests, Department of Forests, Government of Chhattisgarh, Raipur.
: 5. Collector (Koriya), At Baikunthpur, District Koriya, Chhattisgarh.

Shri Raghavendra Kumar, learned counsel for the petitioners.
Shri Prashant Mishra, learned Additional Advocate General for the State/respondents No.1, 4 & 5.
Shri Gautam Bhaduri, learned Standing Counsel for respondent No.2/Union of India.
Shri V.R.Tiwari, learned counsel for respondent No.3

ORAL ORDER
(Passed on 14.11.2006)

The following Oral Order of the Court was passed by Shri S.R.Nayak, C.J.

In this Public Interest Litigation instituted by Adivasi Adhikar Samiti represented by its President and one Sulakshana Nandi, wife of Samir Garg, resident of Manendragarh, a direction is sought to the Union of India to withdraw sanction accorded by it to the Working Plan. The petitioners

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have also sought for a writ of Certiorari to quash the Working Plan insofar as it pertains to felling of trees. The petitioners have also sought for quashing of the Working Plan for retransferring of the forest area from the possession of the Chhattisgarh Van Vikas Nigam Limited, the third respondent herein, to the State of Chhattisgarh.

2. In view of the allegations made in the writ petition and denial of the same by the first and third respondents, the Government of India, Ministry of Environment and Forest had constituted a Committee consisting of Chairman-Conservator of Forest (Central) Government of India, Regional Office, Bhopal, Member-Conservator of Forest, Sarguja Circle, Sarguja, Chhattisgarh & Member Secretary-Deputy Conservator of Forest (Central), Government of India, Regional Office, Bhopal, for the purpose of enquiring into the allegations of the petitioner-Samiti and to submit a report. Pending receipt of the report by the Committee, the Government of India directed that the Management Plan relating to Manendragarh Project Division should remain suspended.

3. As directed by the Government of India, the Committee has submitted a report. A notarized copy of the report was made available to us at the time of hearing by the learned Standing Counsel for the Union of India and the same is placed on record. In view of the findings recorded by the Committee on behalf of respondent No.3, additional statement styled as "additional submission dated 14.11.2006" is placed before us today.

4. We have heard learned counsel for the parties. Learned counsel for the petitioners would submit that the petitioners have no objection to the findings recorded by the Committee in its report. Learned Additional Advocate General appearing for respondents No. 1 and 3 would draw our

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attention to the following passage in the additional submission dated 14.11.2006:

> "Since the Committee has suggested certain improvements/ modifications in the working plan, the answering respondent will take steps to incorporate the suggestions made by the Committee. As a consequence the answering respondent would not be acting upon the working plan unless it is revised and modified in accordance with suggestions made by the Committee."

and undertake on behalf of first and third respondents that they would not be acting upon the Working Plan unless it is revised and modified in accordance with the suggestions/findings made by the Committee in its report. Learned counsel for the petitioners, however, would contend that above undertaking given on behalf of the first and third respondents would not satisfy reliefs sought by the petitioners. Learned counsel for the petitioners would further contend that the very action of the first respondent-State of Chhattisgarh in handing over subject forest is *ex facie* illegal and contrary to the judgment of the Supreme Court inasmuch as that forest cannot be considered to be a degraded forest. In view of the undertaking given by the respondents No. 1 and 3 that they would not act upon the impugned working plan unless the same is modified in accordance with the suggestions / recommendations / findings made or recorded by the Committee, the above point now urged by the learned counsel for the petitioners could also be urged before the MOEF for its consideration. Though learned counsel for the petitioners would appeal to us to decide that point, we are not inclined to undertake the decision-making on that factual issue, and we think that the ends of justice would be served by directing the MOEF to decide the same before it approves the working plan after necessary modification in the light of the findings recorded by the Committee.

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5. The report submitted by the Committee would show that the impugned Working Plan ought not to have been allowed to be acted upon. But, for the initiative taken by the petitioners, several flaws pointed out by the Committee in the report could not have come to the fore and thereby public justice would have suffered. We place our appreciation on record for the initiative taken by the Petitioner-Samiti. We also think it just and proper to award reasonable costs to the petitioners. We direct the State Government to pay a sum of Rs.10,000/- to the first-Petitioner-Samiti by way of Account Payee Demand Draft within one month from today.

6. Learned Additional Advocate General submitted that large quantum of timber and fuel-wood are lying in the forest area and the members of the Committee are preventing the State Authorities from transporting the timber and forest-wood to Government Depots, and if the timber and forest-wood are kept in the forest without any protection, there is likelihood of they being perished due to wind and heavy rains, and therefore, he would request for a direction to permit the State Authorities to transport the timber and fire-wood to the Government Depots.

7. Learned counsel for the petitioners would fairly submit that he does not oppose the request made by the learned Additional Advocate General, but, submitted that the concerned Governmental Authorities should keep the accounts of the timber and fire-wood transported from the forests to the Govt. depots and those accounts should be made available for scrutiny at an appropriate stage. Therefore, we permit the State authorities to transport the timber and fire-wood to Govt. depots, and they should keep the accounts of the same.

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8. The Writ Petition is accordingly disposed of in terms of the above undertaking given to us on behalf of the respondents No. 1 to 3 and also subject to the observations made by us (supra).

Sd/-
Chief Justice

Sd/-
D.R. Deshmukh
Judge

Kvr